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DOCUMENT  
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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
USA,

- against -

FELIPE BARAJAS,

Defendant(s).  
-----X

**SCHEDULING  
ORDER**

18 Cr. 736-04 (NSR)

ROMÁN, D.J.:

In light of the recent Coronavirus Disease 2019 ("COVID-19") pandemic affecting New York, and given the directives provided by the Chief Judge of the United States District Court for the Southern District of New York to limit in-person court appearances due to the risk presented by COVID-19, it is hereby

**ORDERED** that the above case is scheduled for **Motion Hearing** **teleconference on June 17, 2020 at 11:30 am.**

To access the teleconference, please follow these directions: (1) **Dial the Meeting Number: (877) 336-1839;** (2) **Enter the Access Code: 1231334 #;** (3) **Press pound (#) to enter the teleconference as a guest.**

The Defendant shall file a reply, if any, by Tuesday, June 16, 2020 by 3:00 pm.

Prior to the teleconference, Defendant's counsel shall either obtain from Defendant a written or oral waiver of appearance and consent for counsel to proceed telephonically either with or without Defendant present by telephone. If counsel cannot obtain a written waiver from Defendant, counsel must provide an affidavit confirming counsel has obtained Defendant's consent. The affidavit must establish that counsel (1) consulted with Defendant regarding his or her right to be present at

all conferences, (2) discussed with Defendant the current public health emergency created by the COVID-19 pandemic and the restrictions to courthouse access that have been implemented as a result, and (3) obtained Defendant's consent to willingly and voluntarily give up his or her right to be present at conferences for the period of time in which access to the courthouse has been restricted on account of the COVID-19 pandemic.<sup>1</sup> The affidavit shall be e-filed with the Court no later than one (1) day before the scheduled teleconference.

The Government is directed to communicate with the Warden or other managerial supervisor at the correctional facility wherein the named defendant is being housed, within 24 hours prior to the scheduled hearing, and prepare an updated report concerning the remedial measures being undertaken at the facility to prevent the spread of the COVID-19 disease and extent of the disease at the facility. This report shall include the following information: (1) the preventative procedures that have been adopted by the facility to contain the spread of the COVID-19 disease, (2) the number of detainees and/or inmates who have been diagnosed with the disease, to date, (2) the number of staff members who have been diagnosed with the disease, to date, (3) an estimate of any suspected, but undiagnosed, cases of the disease amongst either detainees/inmates or staff members, as well as the basis for that estimation, (4) the quarantine procedures that have been, or will be, implemented to contain patients with either confirmed or unconfirmed diagnoses, (5) the sanitation procedures that that have been, or will be, implemented to clean areas/surfaces used by patients with either confirmed or unconfirmed diagnoses, and (6) any further details that will assist the Court in making its bail determination.

In preparation for and while engaging in a teleconference, please follow these guidelines:

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1 Please see attached sample form in English and Spanish as a reference.

1. Use a landline whenever possible.
2. Use handset rather than speakerphone.
3. Identify yourself each time you speak.
4. Be mindful that, unlike in a courtroom setting, interrupting can render both speakers unintelligible.
5. **Mute** when not speaking to eliminate background noise, i.e., dog barking, kids playing, sirens, papers shuffling, emails pinging, drinking, breathing. It all comes through. This will also prevent interruptions.
6. Avoid voice-activated systems that don't allow the speaker to know when someone else is trying to speak and they cut off the beginning of words.
7. Spell proper names.
8. Have judge confirm reporter is on the line.
9. If someone hears beeps or musical chimes, that means someone has either come in or left the conference. Please be aware that the judge may need to clarify that the reporter has not lost the line. (This has happened before, and the reporter had to dial back in and tell the judge the last thing that the court reporter transcribed.)

The Government is directed to serve a copy of this order upon the correctional facility wherein Defendant is housed for purposes of making Defendant available for the scheduled proceeding via telephonic conference.

Dated: White Plains, New York  
June 12, 2020

SO ORDERED.



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Hon. Nelson S. Román, U.S.D.J.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
UNITED STATES OF AMERICA

-v-

,  
Defendant.

**WAIVER OF RIGHT TO BE  
PRESENT AT CRIMINAL  
PROCEEDING**

-----X  
-CR-

( )( )

**Check Proceeding that Applies**

\_\_\_\_ Arraignment

I have been given a copy of the indictment containing the charges against me and have reviewed it with my attorney. I understand that I have a right to appear before a judge in a courtroom in the Southern District of New York to confirm that I have received and reviewed the indictment; to have the indictment read aloud to me if I wish; and to enter a plea of either guilty or not guilty before the judge. After consultation with my attorney, I wish to plead not guilty. By signing this document, I wish to advise the court of the following. I willingly give up my right to appear in a courtroom in the Southern District of New York to advise the court that:

- 1) I have received and reviewed a copy of the indictment.
- 2) I do not need the judge to read the indictment aloud to me.
- 3) I plead not guilty to the charges against me in the indictment.

Date:

\_\_\_\_\_  
Signature of Defendant

\_\_\_\_\_  
Print Name

\_\_\_\_ Conference Date: \_\_\_\_\_

I have been charged in an indictment with violations of federal law. I understand that I have a right to be present at all conferences concerning this indictment that are held by a judge in the Southern District of New York, unless the conference involves only a question of law. I understand that at these conferences the judge may, among other things, 1) set a schedule for the case including the date at which the trial will be held, and 2) determine whether, under the Speedy Trial Act, certain periods of time should be properly excluded in setting the time by which the trial must occur. I have discussed these issues with my attorney and wish to give up my right to be present at the conferences. By signing this document, I wish to advise the court that I willingly give up my right to be present at the conferences in my case for the period of time in which access to the courthouse has been restricted on account of the COVID-19 pandemic. I

request that my attorney be permitted to represent my interests at the proceedings even though I will not be present.

Date:

\_\_\_\_\_  
Signature of Defendant

\_\_\_\_\_  
Print Name

I hereby affirm that I am aware of my obligation to discuss with my client the charges contained in the indictment, my client's rights to attend and participate in the criminal proceedings encompassed by this waiver, and this waiver form. I affirm that my client knowingly and voluntarily consents to the proceedings being held in my client's absence. I will inform my client of what transpires at the proceedings and provide my client with a copy of the transcript of the proceedings, if requested.

Date:

\_\_\_\_\_  
Signature of Defense Counsel

\_\_\_\_\_  
Print Name

**Addendum for a defendant who requires services of an interpreter:**

I used the services of an interpreter to discuss these issues with the defendant. The interpreter also translated this document, in its entirety, to the defendant before the defendant signed it. The interpreter's name is: \_\_\_\_\_.

Date:

\_\_\_\_\_  
Signature of Defense Counsel

**Accepted:**

\_\_\_\_\_  
Signature of Judge

Date:



[TRANSLATION / TRADUCCION]

Borrador: 26 de marzo, 2020, 15:20

TRIBUNAL DE DISTRITO  
DISTRITO SUR DE NUEVA YORK

-----X  
ESTADOS UNIDOS DE AMERICA

-contra-

RENUNCIA AL DERECHO A  
ESTAR PRESENTE EN UNA  
ACTUACIÓN PENAL

-CR- ( ) (

)

Acusado(s).

X

Marque el procedimiento judicial que corresponda

\_\_\_\_\_ Instrucción de cargos

Se me ha dado una copia de la acusación del Gran Jurado (*indictment*) que contiene los cargos en mi contra y he hablado con mi abogado acerca de esos cargos. Mi abogado me ha informado de que tengo el derecho a comparecer ante un juez en una sala de audiencias en el Distrito Sur de Nueva York para confirmar que he recibido y examinado la acusación formal (*indictment*); a que se de lectura en mi presencia a la acusación formal si ése es mi deseo; y a formular una declaración de culpabilidad o no culpabilidad ante el juez. He examinado estas cuestiones con mi abogado y deseo declararme no culpable. Con la firma del presente documento, deseo informar al tribunal de lo siguiente: Renuncio voluntariamente a comparecer en una sala de audiencias en el Distrito Sur de Nueva York para comunicarle al juez lo siguiente:

- 1) He recibido y examinado una copia de la acusación formal.
- 2) No necesito que el juez de lectura a la acusación formal en mi presencia.
- 3) Me declaro no culpable de los cargos en mi contra contenidos en la acusación formal.

Fecha:

\_\_\_\_\_  
Firma del acusado

\_\_\_\_\_  
Nombre en letras de molde

\_\_\_\_\_ Audiencia

Me han acusado en una acusación formal de haber infringido leyes federales. He hablado con mi abogado acerca de estos cargos. Mi abogado me ha informado de que tengo el derecho a estar presente en todas las audiencias relacionadas con esta acusación formal que se celebren ante un juez del Distrito Sur de Nueva York. Entiendo que durante estas audiencias el juez puede, entre otras cosas, 1) fijar

plazos para tramitar la causa, incluida la fecha en que se realizará el juicio oral, y 2) determinar si el plazo para cuando deba realizarse el juicio está debidamente excluido de conformidad con la Ley de Juicios sin Demora. He examinado estas cuestiones con mi abogado y deseo renunciar a mi derecho a estar presente en las audiencias. Con la firma del presente documento, deseo notificar al tribunal que renuncio voluntariamente a mi derecho a estar presente en las audiencias de mi proceso durante el plazo en que se haya restringido el acceso a los tribunales debido a la pandemia del CORONAVIRUS (COVID-19). Solicito que se permita a mi abogado representar mis intereses en las actuaciones aunque yo no me encuentre presente.

Fecha:

\_\_\_\_\_  
Firma del acusado

\_\_\_\_\_  
Nombre en letras de molde

Declaro por la presente que he examinado con mi cliente los cargos imputados contenidos en la acusación formal (*indictment*), los derechos de mi cliente a estar presente y participar en las actuaciones penales mencionadas en la presente renuncia, y el formulario correspondiente. Declaro asimismo que mi cliente presta consentimiento, a sabiendas y voluntariamente, a que se realicen las actuaciones en su ausencia. Informaré a mi cliente de lo acontecido durante las actuaciones y le proporcionaré copia de la transcripción de las actas.

Fecha:

\_\_\_\_\_  
Firma del abogado defensor

\_\_\_\_\_  
Nombre en letras de molde

Adición para los acusados que necesiten servicios de interpretación:

He utilizado servicios de interpretación para examinar estas cuestiones con el acusado. El/la intérprete también ha traducido en su totalidad el presente documento al acusado antes de que éste lo firmara. El nombre del/de la intérprete es: \_\_\_\_\_.

Fecha:

\_\_\_\_\_  
Firma del abogado defensor

Aceptado:

\_\_\_\_\_  
Firma del juez

Fecha:

[TRANSLATION/TRADUCCION]

TRIBUNAL DE DISTRITO  
DISTRITO SUR DE NUEVA YORK

-----X

POR

ESTADOS UNIDOS DE AMERICA,

-contra-

CONSENTIMIENTO PARA PROCEDER

POR VIDEO O TELECONFERENCIA

-CR- ( ) ( )

Acusado(s).

\_\_\_\_\_X

El acusado \_\_\_\_\_ por la presente da su  
consentimiento voluntariamente para participar en el siguiente acto por \_\_\_\_ videoconferencia o  
\_\_\_\_ teleconferencia:

\_\_\_\_ Primera comparecencia ante un oficial judicial

\_\_\_\_ Instrucción de cargos (Nota: De tratarse de la presentación de cargos por la fiscalía  
(*information*),

el acusado tendrá que firmar por separado la renuncia a ser acusado por un Gran Jurado  
(*indictment*).

\_\_\_\_ Audiencia de fianza/prisión preventiva

\_\_\_\_ Audiencia ante un oficial judicial

\_\_\_\_\_  
Firma del acusado

(El juez puede obtener consentimiento  
oral con constancia en el acta y firmar por  
el acusado)

\_\_\_\_\_  
Firma del abogado defensor

\_\_\_\_\_  
Nombre del acusado en letras de molde

\_\_\_\_\_  
Nombre del abogado en letras de molde

Este acto se realizó mediante tecnología fiable de video o teleconferencia.

\_\_\_\_\_  
Fecha

\_\_\_\_\_  
Juez Federal de Distrito / Juez Magistrado  
Federal